

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JIMMY SMITH,
Plaintiff,

v.

CITY OF BERKELEY, et al.,
Defendants.

Case No. [15-cv-05197-JSC](#)

ORDER TO SHOW CAUSE

Plaintiff Jimmy Smith ("Plaintiff"), proceeding pro se, brings this civil rights action against the City of Berkeley. The Court previously granted Plaintiff's Application to Proceed In Forma Pauperis. (Dkt. No. 4.) At that time, the Court also evaluated Plaintiff's complaint under 28 U.S.C. § 1915(e)(2) and found it sufficient to proceed to service by the U.S. Marshal. (*Id.*) The Clerk's Office sent Plaintiff a letter requesting an address for one of the defendants for service of process. (Dkt. No. 5.) Plaintiff did not respond, and neither Defendant has been served to date. In addition, the Court scheduled a Case Management Conference for February 11, 2016 and ordered Plaintiff to submit a case management conference statement by February 4, 2016. (Dkt. No. 3.) Plaintiff neither submitted a statement nor appeared at the conference.

Rule 41 accords a district court discretion to dismiss a plaintiff's action because of his failure to prosecute, to comply with any order of the court, or to comply with the Federal Rules of Civil Procedure. *See, e.g., Hearn v. San Bernardino Police Dep't*, 530 F.3d 1124, 1129 (9th Cir. 2008); *Ferdik v. Bonzelet*, 963 F.2d 1258 (9th Cir. 1992) (affirming dismissal of a *pro se* prisoner's civil rights action where the plaintiff failed to comply with the court's order to file an amended pleading), *cert. denied*, 506 U.S. 915 (1992); *Nevijel v. Northcoast Life Ins. Co.*, 651 F.2d 671, 673 (9th Cir. 1981) ("A complaint which fails to comply with [Rule 8(a)] may be

1 dismissed with prejudice pursuant to [R]ule 41(b).”). Accordingly, the Court ORDERS Plaintiff
2 to SHOW CAUSE why this action should not be dismissed pursuant to Federal Rule of Civil
3 Procedure 41(b). Plaintiff shall file a written response to this Order by **February 25, 2016**. If
4 Plaintiff fails to file a response by that date, this action may be dismissed without prejudice for
5 failure to comply with the Court’s orders and failure to prosecute.

6 **IT IS SO ORDERED.**

7 Dated: February 12, 2016

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10 JACQUELINE SCOTT CORLEY
11 United States Magistrate Judge
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United States District Court
Northern District of California